

Exhibit 2

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

A. SCHULMAN, INC.,)	
)	
Plaintiff- Counter-Defendant,)	Case No. 1:15-cv-1760
)	
vs.)	Judge Patricia A. Gaughan
)	
POLYONE CORPORATION, and)	
POLYONE DESIGNED STRUCTURES)	
& SOLUTIONS LLC,)	
)	
<u>Defendants-Counter-Plaintiffs.</u>)	

A. SCHULMAN, INC.’S L.P.R. 4.2(c) FINAL PROPOSED CONSTRUCTIONS

Pursuant to L.P.R. 4.2(c), Plaintiff, A. Schulman, Inc., hereby serves Defendants with its final proposed constructions of the disputed terms in the claims of the patents-in-suit. The evidence identified below in support of such constructions has been previously provided to counsel for Defendants. Plaintiff reserves the right to modify these proposed constructions. Plaintiff reserves the right to offer additional evidence to refute arguments Defendants may make.

A. “random microstructure”

Proposed Construction: A polyolefin backing layer with a “random microstructure” is a layer primarily composing one or more polyolefins that are not block copolymers, and in which the mer units (the portion of a polymer derived from a single reactant molecule) do not form blocks and, instead, are incorporated in an essentially non-repeating manner.

Supporting evidence:

- Provisional application no. 61/050,465;

- PCT/US2009/042704;
- '902 patent, 7:33-37; 7:37-52; 9:59-10:5 (describing example polyolefins with random microstructures);
- Prosecution history of '902 patent, including Application No. 12/548,946, 6-24-2010 Office Action at 13, ¶ 38; 9-13-2010 Office Action at 3; 11-12-2010 Office Action at 3, 2-2-2011 Office Action; 2011-04-01 Pre-Brief Appeal Conference Request at 1; 2011-07-01, Notice of Allowance;
- U.S. Patent No. 9,133,290, 3:6-8 (mer unit), 4:55-58 (defining random microstructure);
- US 2007/0293622 to Yan, ¶0014 (mer unit) ¶0025 (random microstructure);
- Expert Report of E. Bryan Coughlin, ¶¶ 6-14;
- Block Index for Characterizing Olefin Block Copolymers, (Copyright 2007, WILEY_VCR Verlag GmbH & Co. KGaA, Weinheim), refers to "typical random olefin copolymers" (p. 80), and "traditional random copolymers" (p.81). This article is available at <https://books.google.com/books?id=FyHyRg04Fy4C&pg=PT92&lpg=PT92&dg=random+microstructure+polyolefin&source=bl&ots=9XlPr4ZbPo&sig=nMMkHBVjTsfI0XlZTu9YAwZ1-IM&hl=en&sa=X&ved=OahUKEwiV8gm3ya3PAhVM7yYKHXnTDPQQ6AEINTAE#v=onepage&g=random%20microstructure%20polyolefin&f=false>; US 2007/0225431, ¶ 92.

B. “a DOI of 70 or greater” or “a DOI of 85 or greater”

Proposed Construction: “DOI” means “distinctiveness of image, a measure of how clearly an object is reflected by a surface.” A POSA would understand, given the patent specification, that DOI is determined by measurement using any of the approved DOI measurement instruments listed in GM 4348M section 3.1.5.

Supporting Evidence:

- Provisional application no. 61/050,465;
- PCT/US2009/042704;
- ‘902 patent, Abstract, 1:61-65; 2:18, 2:37; 2:49; Table 1, Table 2, including footnotes;
- U.S. Pat. No. 6,509,964, col. 1, lines 20-22;
- Prosecution history of ‘902 patent, including Application No. 12/548,946, 6-24-2010 Office Action at 3; 9-13-2010 Office Action at 3; 11-12-2010 Office Action at 3; 2-2-2011 Office Action at 3.
- Prosecution history of ‘906 patent, including Notice of Allowance, 4-2-2012;
- Reexamination prosecution history 90/013,612 of ‘902 patent, including: 12-18-2015 Office Action; 12-18-2015 Response to Office Action, at 6; 2-12-2016 Declaration of Dennis Smith filed in reexamination; 2-17-2016 Declaration of Brian Coughlin filed in reexamination; 3-17-16 Notice of Intent to Issue A Reexam Certificate at 3.
- Reexamination prosecution histories of ‘906 patent, including

- Reexamination Prosecution History No. 90/013,513, including: 10-16-2015 Office Action; 12-16-2015 Declaration of Dennis C. Smith; 12-16-2015 Declaration of E. Bryan Coughlin; 1-13-2016 Decision Merging Proceedings; 2-25-2016 Supplemental Response to Office Action Under 37 C.F.R. §1.111(a)(2) at 6 (correcting typographical error in original response);
- Reexamination Prosecution History No. 90/013,612, including 12-18-2015 Office Action; 2-18-2016 Response to Office Action; 2-17-2016 Declaration of E. Bryan Coughlin; 2-12-2016 Declaration of Dennis Smith; 3-16-2016 Notice of Intent to Issue a Reexam Certificate at 2-3;
- GM9508P (cited in the patent specification)
- GM4348M (cited in GM9508P), at page 6, section 3.1.5 of GM 4348M (listing instruments approved by GM for measuring DOI;
- GMN10044 p. 3, Table 1;
- U.S. Pat. No. 6,326,428, col. 1, lines 53-58 (referring to GM Method 9101-P, which utilizes a "glow box," which is one of the approved apparatus specified in GM4348M, Section 3.1.5);
- Expert Report of Jamil Baghdachi, Ph.D. ¶¶ 1-14; Rebuttal Expert Report of Jamil Baghdachi, Ph.D. ¶¶ 1-3, 12-16.

C. “passes a gravelometer impact test per the GM9508P standard, with a 10 pt load at a -30° C. temperature, and at an angle of 30 degrees”

Proposed Construction: A POSA would understand that “passes a gravelometer impact test per the GM9508P standard, with a 10 pt load at a -30° C. temperature, and at an angle of 30 degrees” would mean “has a score of 7 or greater per the scoring system of the GM9508P standard with no cracking or delamination.” A POSA would also understand that only chips are counted for purposes of computing the score, and that mars, which are the subject of a separate GM standard, GMW 3943, are not counted.

Supporting Evidence:

- Provisional application no. 61/050,465;
- PCT/US2009/042704;
- ‘902 patent, col. 12, lines 16-20; Table 2;
- Prosecution history of ‘902 patent, including Application No. 12/548,946, 6-24-2010 Non-Final Rejection at 3; 9-13-2010 Final Rejection at 3; 11-12-2010 Non-Final Rejection at 3, 2-2-2011 Final Rejection at 3.
- Reexamination prosecution history 90/013,612 of ‘902 patent, including: 12-18-2015 Office Action; 12-18-2015 Response to Office Action, at 6-9; 2-12-2016 Declaration of Dennis Smith filed in reexamination; 2-17-2016 Declaration of Brian Coughlin filed in reexamination; 3-17-16 Notice of Intent to Issue A Reexam Certificate at 3.
- Reexamination prosecution histories of ‘906 patent, including
 - Reexamination Prosecution History No. 90/013,513, including: 10-16-2015 Office Action; 12-16-2015 Declaration of Dennis C. Smith; 12-16-2015

Declaration of E. Bryan Coughlin; 1-13-2016 Decision Merging Proceedings; 2-25-2016 Supplemental Response to Office Action Under 37 C.F.R. §1.111(a)(2) at 6 (correcting typographical error in original response);

- Reexamination Prosecution History No. 90/013,612, including 12-18-2015 Office Action; 2-18-2016 Response to Office Action; 2-17-2016 Declaration of E. Bryan Coughlin; 2-12-2016 Declaration of Dennis Smith; 3-16-2016 Notice of Intent to Issue a Reexam Certificate at 2-3;

- GM9508P;
- GM10044, section 3.1.5;
- Chinese patent 17889778A, p.8, line 14 (machine translation), p.3, last full paragraph;
- Expert Report of Jamil Baghdachi, Ph.D. ¶¶ 1-9, 15-18; Rebuttal Expert Report of Jamil Baghdachi, Ph.D. ¶¶ 1-11, 16.

D. “clear polyolefin layer”

Proposed Construction: A POSA would understand that a “clear polyolefin layer has a light transmittance of 85% or greater, a haze of 10 or less.”

Supporting Evidence: ‘902 patent, Col. 5, lines 38-44; Expert Report of Bryan Coughlin, including ¶ 15.

E. “colored polyolefin layer.”

Proposed Construction: Plain and ordinary meaning.

Supporting Evidence: ‘902 patent specification, including col. 6, line 23; col. 10, lines 37-39; Expert report of Bryan Coughlin, including ¶ 16.

Dated: January 17, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that on January 17, 2017, a copy of the foregoing was served via email on counsel of record for Defendants.

/s/ Eric C. Cohen
Eric C. Cohen (admitted pro hac vice)